

Remarks/Arguments

The patent office has provided a species election requiring the applicant to list a particular formulation from claims 19 and 53 accompanied by buffer, sugar, salt, divalent cation, non-ionic detergent, and the combination of free radical inhibitors with their respective amounts. Responsive to the species election, applicants provisionally elect the formulation represented by A165. A165 is made up of the following:

buffer: 5 mM Tris;

sugar: 5% sucrose;

salt: 75 mM NaCl;

divalent cation: 2 mM MgCl₂;

non-ionic detergent: 0.1% (w/v) Polysorbate-80;

free radical inhibitors: 5 mM histidine (histidine also acts as a buffer), 0.1 mM EDTA, and 0.5% (v/v) ethanol;

pH 7.4.

The present amendment amends claims 12, 17, 18, 19, 24, 25, 27, 31, 32, 52, 53, 58, 59, 60, 64, and 65, without prejudice to future prosecution. Claims 10-19, 21, 24-34, 46-67 read on the elected species. The species election is made without traverse.

The amendment to claims 12, 27, 52 and 58, are intended to clarify the invention by indicating the buffer is a Tris buffer rather than preferably a Tris buffer. Claim 27 was also amended to remove reference to adenovirus concentration, which is already provided in claim 27 based on its dependency to claim 26.

The amendment to claims 17, 18, 31, 32, 59, 60 generically cover the elected species. Support for the different components indicated in the amendment are provided in the specification on page 14, lines 1-14 (generally providing the formulation components), page 15, lines 21-25 (more particularly describing EDTA and ethanol), and page 23, line 18 to page 24, line 16 (providing examples of formulations containing 5 mM, 7.5 mM and 10 mM histidine).

The amendment to claims 19 and 53 adds A151b to the list of virus formulations. A151b is described on page 23, lines 20-21. A151b differs from the elected species of A165 by containing 1 mM MgCl₂ and 0.005% Polysorbate-80, as opposed to 2 mM MgCl₂ and 0.1%

Polysorbate-80 provided in A165. Applicants are not arguing that A151B is an obvious variant of A165.

The amendment to claim 24 more clearly indicates the presence of an adenovirus.

The amendment to claim 25 is intended to be an editorial revision removing reference to purified virus and inhibitor, which are provided for in claim 24. Claim 25 depends from claim 24.

The amendment to claim 64 indicates the presence of a recombinant adenovirus. A recombinant adenovirus is a species of adenovirus. (See, for example, the present application at page 7, lines 7-12, and page 7, line 31 to page 8, line 11).

The amendment to claim 65 is intended to be an editorial revision removing reference to purified virus and inhibitor, which are provided for in claim 64. Claim 65 depends from claim 64.

Also enclosed is a supplemental IDS listing a US20050186225. US20050186225 is a pending continuation-in-part of the present application.

Accordingly the claims are in condition for allowance. Please charge deposit account 13-2755 for fees due in connection with this amendment. If any time extensions are needed for the timely filing of the present amendment, applicants petition for such extensions and authorize the charging of deposit account 13-2755 for the appropriate fees.

Respectfully submitted,

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